REMARKS

This paper is responsive to the non-Final Office Action of December 11, 2008. Reconsideration and allowance of the claims 13, 16, and 19-21 are requested.

The Office Action

Claims 1-4, 6-10, 12, and 14 stand rejected under 35 U.S.C. § 102 over one or more of Pacetti (US 2002/0188345), Kuehne (WO 02/47575), or Keilman (US 6,231,516).

Claims 5, 11, 13, and 16 stand rejected under 35 U.S.C. § 103 over Pacetti.

The Claims Distinguish Patentably Over the References of Record

Claim 13 has been placed in independent form including the subject matter of preceding claims 9-12. Claim 13 calls for a plurality of conductive elements including generally diagonally arranged struts which are formed into a plurality of loops around a central axis of the stent. By distinction, in Figure 4 of Pacetti, conductive elements **49** are not arranged in a diamond shape, but rather more in a flame arrangement. Further, rather than being connected into loops around a central axis of the stent, the conductive elements are connected by conductive connecting elements **50** into loops around each aperture **42** or cell **44**. In Figure 5 of Pacetti, the discontinuities or cuts **52** prevent the current from flowing in loops around the cells. That is, there is a plurality of discontinuous electrical segments which do not form loops.

In paragraph [0033], Pacetti indicates that currents flow around the entire perimeter or circumference of the stent through rings **40**. In this paragraph, Pacetti acknowledges that such rings "are expected to be the most problematic for MRI, although currents in cells **44** also cause signal distortion or attenuation." In paragraph [0011], Pacetti states that "to eliminate or reduce the Faraday cage effect, one approach is to break up the continuous, metallic, electrically conductive paths in the stent pattern". It is submitted that paragraphs [0011] and [0033] of Pacetti teach

against the construction of Figure 4 in favor of a stent construction which has a plurality of electrical discontinuities (note paragraph [0012]).

Accordingly, it is submitted that **claim 13** is not a mere choice of design over Pacetti, but represents a design which Pacetti specifically teaches against.

Claim 16 calls for a diamond-shaped mesh of conductive struts and insulating nodes in which the conductive struts are electrically connected to define a plurality of loops of zig-zag strut patterns extending peripherally around the cylinder. Moreover, claim 16 calls for each ring to be connected with its adjacent rings such that the electric current flows in opposite directions in each ring. Pacetti fails to suggest directing current in opposite directions through each ring and instead, teaches that a design such as Figure 4 without the breaks to prevent current flowing in loops is particularly problematic in MRI situations. Accordingly, it is submitted that the structure set forth in Figure 16 is not a mere choice of design relative to Pacetti, but rather represents a design which Pacetti specifically teaches against.

New **claims 19 and 20 which depend from claim 16** are directed to the embodiments of Figure 3B and 4B of the present application, respectively. Such current patterns are again neither shown nor suggested by Pacetti.

New **claim 21** is directed to the embodiment described at page 10, lines 10-18 of the present application. Rather than the electrical discontinuities within the electrically conductive elements which are advocated by Pacetti, claim 21 calls for two layers of electrically conductive meshes in which the current flow is equal and opposite such that the currents cancel each other. Such a structure is not disclosed in Pacetti, Kuehne, or Keilman and, it is submitted, is a distinctly different design and not merely a choice of design relative thereto.

CONCLUSION

For the reasons set forth above, it is submitted that claims 13, 16, and 19-21 are not anticipated by and distinguish patentably over the references of record. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is requested to telephone Thomas Kocovsky at 216.363.9000.

Respectfully submitted,

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